

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

VS.

CASE NO. 3:99CR198-001(PG)

**DAVID PAGAN AVILA
AKA: DAVID REYES-RIVERA**

**MOTION NOTIFYING VIOLATION OF THE SUPERVISED RELEASE CONDITIONS
AND REQUEST FOR AN ARREST WARRANT**

TO THE HONORABLE JUAN M PEREZ-GIMENEZ
U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO

COMES NOW, JEFFREY SEMIDEY-ACOSTA U.S. PROBATION OFFICER of this Court, presenting an official report on the conduct and attitude of releasee, David Pagán-Avila, who on July 21, 2000, was sentenced by Your Honor, to seventy (70) months of imprisonment to be followed by an eight (8) year supervised release term, after he pleaded guilty of violating Title 21 U.S.C. Section 846 and 21:841(a)(1). As special conditions, he was ordered to participate in a drug treatment program, as directed by the probation officer, submit to urinalysis and provide financial information upon request. A \$100.00 Special Monetary Assessment was also imposed. On September 18, 2004, Mr. Pagán Avilas was released to supervision.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS
FOLLOWS:**

Since his release from custody, the offender has violated the conditions of his supervision term as noted:

1. CONDITION NO. 1- "THE DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE OR LOCAL CRIME."

On March 24, 2006, this officer received a telephone call from Agent Luis E. Estrada, from the Puerto Rico Police Department, Criminal Investigation Bureau(CIC), Homicide Division of Caguas, Puerto Rico. He informed that Mr. David Pagán-Avila was involved in a murder case that occurred on March 22, 2006 in Gurabo, Puerto Rico. He further informed that on March 23, 2006, a search order was executed by the Puerto Rico Police Department, Drugs and Narcotics Division. Reportedly, Mr. Pagán-Avila has been investigated and he is involved in the distribution of illegal drugs in the Villa Alegre area, Gurabo, Puerto Rico. Agent José Mojica also from the Puerto Rico Police, informed that no drugs were seized neither in Mr. Pagán-Avila's vehicle nor his residence, even though the K-9 identified that there were drugs at some point. The offender had in his possession a counterfeit \$20.00 bill. On March 31, 2006, a complaint was filed at the Superior Court, Caguas. The offender was charged with two counts of violating Article 5.06, of the Puerto Rico, Firearms Law and one count for murder, Article 106, of the Puerto Rico Penal Code. A \$900,000 bail was ordered, the offender's arrest has not been yet executed.

2. CONDITION NO. 9- "THE DEFENDANT SHALL NOT ASSOCIATE WITH ANY PERSONS ENGAGED IN CRIMINAL ACTIVITY, AND SHALL NOT ASSOCIATE WITH ANY PERSON CONVICTED OF A FELONY UNLESS GRANTED PERMISSION TO DO SO BY THE PROBATION OFFICER."

Puerto Rico Police Department Agents Estrada and Mojica informed that Mr. Pagán-Avila is associating with co-defendant José Hernández-Rosa, who is also involved in the distribution of illegal drugs in the Villa Alegre Ward, Gurabo.

3. **CONDITION NO. 11- "THE DEFENDANT SHALL NOTIFY THE PROBATION OFFICER WITHIN SEVENTY-TWO HOURS OF BEING ARRESTED OR QUESTIONED BY LAW ENFORCEMENT OFFICER."**

As of this date the offender has not informed of the search conducted to his car and residence.

4. **SPECIAL CONDITION NO. 1- " HE SHALL NOT POSSESS CONTROLLED SUBSTANCES NOR ANY FIREARMS, DESTRUCTIVE DEVICES, OR OTHER DANGEROUS WEAPONS."**

According to the information provided by, the Police of Puerto Rico, Mr. Pagán-Avila has been involved in possession of a firearm and other illegal activity. Reportedly, he is also a distributor of illegal drugs in his community.

5. **SPECIAL CONDITION NO. 2- "THE DEFENDANT SHALL PARTICIPATE IN A SUBSTANCE ABUSE TREATMENT PROGRAM, ARRANGED AND APPROVED BY THE US PROBATION OFFICER UNTIL DULY DISCHARGED BY AUTHORIZED PROGRAM PERSONNEL WITH THE APPROVAL OF THE US PROBATION OFFICER, AND SUBMIT TO URINALYSIS WITHIN THE FIRST 15 DAYS OF RELEASE ON SUPERVISED RELEASE, AND THEREAFTER WHENEVER REQUIRED TO DO SO BY THE TREATMENT PROGRAM OR THE US PROBATION OFFICER."**

Mr. Pagán-Avila failed to report for treatment on November 16, December 5, 20, 2005, and January 17, 2006. He was confronted by USPO Miriam Figueroa on February 14, 2006, and instructed to contact the undersigned. However, he has failed to comply.

WHEREFORE, I declare under penalty of perjury that the foregoing is true and correct. In lieu of the aforementioned, it is respectfully requested that a warrant be issued so that the offender may be brought before this Court to show cause why his supervised release term should not be revoked. Thereupon, he to be dealt with pursuant to law.

In San Juan, Puerto Rico, this 4th day of April 2006.

Respectfully submitted,

s/Jeffrey Semidey

Jeffrey Semidey

U.S. Probation Officer

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CERTIFICATE OF SERVICE

I HEREBY CERTIFIED that on April 4, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which send notification of such filing to the following:

I hereby certify that I have mailed by the United States Postal Service the document to Robert Millán, Esq., 1056 Muñoz Rivera Ave., Suite 1001, First Federal Building, San Juan, PR 00927 and H. S. Garcia, U.S. Attorney, Torre Chardón - Suite 1201, 350 Carlos Chardón Street, San Juan, PR 00918

At San Juan, Puerto Rico, this 4th day of April 2006.

s/Jeffrey Semidey
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